

1-1 By: Hughes S.B. No. 1954
1-2 (In the Senate - Filed March 10, 2017; March 27, 2017, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 5, 2017, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 5, 2017,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Hughes	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Estes	X		
1-14	Lucio	X		
1-15	Nelson	X		
1-16	Schwertner	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1954 By: Hughes

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to participation in and contributions to the optional
1-22 retirement program for certain employees of institutions of higher
1-23 education.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 830.102, Government Code, is amended by
1-26 amending Subsection (c) and adding Subsections (c-1) and (c-2) to
1-27 read as follows:

1-28 (c) Except as provided by Subsections (c-1) and (c-2), a [A]
1-29 person who becomes eligible to participate in the optional
1-30 retirement program after the date the program becomes available at
1-31 the person's place of employment must elect to participate before
1-32 the 91st day after becoming eligible.

1-33 (c-1) A person who becomes eligible to participate in the
1-34 optional retirement program and is notified by the person's
1-35 employer of the opportunity to participate in the program after the
1-36 first day and before the 91st day after the date the person becomes
1-37 eligible must elect to participate in the program before the later
1-38 of:

1-39 (1) the 91st day after the date the person becomes
1-40 eligible; or

1-41 (2) the 31st day after the date the person receives
1-42 notice of the opportunity to participate in the program.

1-43 (c-2) A person who becomes eligible to participate in the
1-44 optional retirement program and is notified by the person's
1-45 employer of the opportunity to participate in the program on or
1-46 after the 91st day after the date the person becomes eligible must
1-47 be notified by the employer before the 151st day after the date the
1-48 person becomes eligible. The person must elect to participate in
1-49 the program before the later of:

1-50 (1) the 151st day after the date the person becomes
1-51 eligible; or

1-52 (2) the 31st day after the date the person receives
1-53 notice of the opportunity to participate in the program.

1-54 SECTION 2. Subchapter B, Chapter 830, Government Code, is
1-55 amended by adding Section 830.108 to read as follows:

1-56 Sec. 830.108. CORRECTION OF CERTAIN REPORTING ERRORS.

1-57 (a) For purposes of this section, an employer submits a member
1-58 contribution to the retirement system on behalf of a person in error
1-59 if the person:

1-60 (1) previously elected to participate in the optional

2-1 retirement program;
2-2 (2) participated in the program for at least one year;
2-3 and
2-4 (3) is or was employed by an institution of higher
2-5 education in a position normally covered by the retirement system
2-6 and is or was at the time of that employment not eligible for
2-7 membership in the retirement system under Section 830.106.
2-8 (b) If an employer commits an error described by Subsection
2-9 (a) and the person on whose behalf the member contribution is
2-10 erroneously made is a participant in the optional retirement
2-11 program:
2-12 (1) the person's participation in the program shall be
2-13 immediately restored; and
2-14 (2) in accordance with this section and as soon as
2-15 practicable, funds shall be deposited in the person's participant
2-16 account in the program or otherwise remitted to the person.
2-17 (c) Subject to Subsection (d), on discovery of an error
2-18 described by this section, the retirement system shall, on
2-19 certification by an employer that the employer committed the error:
2-20 (1) make a direct trustee-to-trustee transfer to the
2-21 trustee of the optional retirement program for deposit in the
2-22 person's participant account in an amount equal to the participant
2-23 contribution that would have been paid for the benefit of the person
2-24 to the program under Section 830.201 during the period in which
2-25 member contributions were submitted to the retirement system in
2-26 error, plus an amount representing earnings on the member
2-27 contribution at the assumed rate of return provided by Subsection
2-28 (g);
2-29 (2) credit the employer through the retirement
2-30 system's employer reporting system an amount equal to the amount of
2-31 any employer contributions made under Section 825.4041, 825.406,
2-32 825.407, or 825.4071 in error on compensation paid to the person;
2-33 and
2-34 (3) remit to the person:
2-35 (A) the amount of any member contribution made to
2-36 the retirement system in error that exceeds the amount of the
2-37 participant contribution that would have been paid for the benefit
2-38 of the person to the program during the period in which member
2-39 contributions were submitted to the retirement system in error;
2-40 (B) the amount of any member contribution made to
2-41 the retirement system in error that was made on an after-tax basis
2-42 and that the retirement system could not transfer via a direct
2-43 trustee-to-trustee transfer under applicable provisions of the
2-44 Internal Revenue Code, including regulations adopted under the
2-45 Internal Revenue Code, or under the terms of the program
2-46 established by the employer; and
2-47 (C) any amount paid by the person to the
2-48 retirement system to purchase or reinstate service credit during
2-49 the period the person was not eligible for membership in the
2-50 retirement system, including any administrative, reinstatement,
2-51 and installment fees paid in connection with the purchase.
2-52 (d) A transfer described by Subsection (c) may not include
2-53 the amount of any member contribution made to the retirement system
2-54 in error that:
2-55 (1) exceeds the amount of the participant contribution
2-56 that would have been paid for the benefit of the person to the
2-57 optional retirement program under Section 830.201; or
2-58 (2) was made on an after-tax basis unless the plan
2-59 document for each employer program:
2-60 (A) permits the employer program to receive
2-61 direct trustee-to-trustee transfers of after-tax amounts; and
2-62 (B) provides that the trustee of the employer
2-63 program agrees to separately account for amounts transferred and
2-64 earnings on amounts transferred, including accounting for the
2-65 portion of the distribution that is includable in gross income and
2-66 the portion of the distribution that is not includable in gross
2-67 income.
2-68 (e) On certification by an employer that the employer
2-69 committed an error described by this section, the comptroller shall

3-1 transfer to or credit the employer an amount equal to the state
3-2 contribution that would have been paid for the benefit of the person
3-3 under Section 830.201 plus an amount representing earnings on the
3-4 state contribution at the assumed rate of return provided by
3-5 Subsection (g).

3-6 (f) An employer that commits an error described by this
3-7 section shall deposit in the person's participant account in the
3-8 program:

3-9 (1) in accordance with Subsection (c), the amount of
3-10 the employer contribution that would have been paid for the benefit
3-11 of the person as a participant under Section 830.201 and under any
3-12 other law, rule, or employer policy;

3-13 (2) an amount representing earnings on the employer
3-14 contribution at the assumed rate of return determined by the
3-15 employer in accordance with applicable Internal Revenue Code
3-16 correction requirements; and

3-17 (3) an amount equal to the state contribution that
3-18 would have been paid for the benefit of the person under Section
3-19 830.201 plus the amount representing earnings credited to the
3-20 employer under Subsection (e).

3-21 (g) The assumed rate of return is earned monthly and
3-22 computed at the rate of four percent per year. Except as provided by
3-23 this subsection, the amount of earnings based on the assumed rate of
3-24 return is credited annually at the end of each 12-month period. The
3-25 first 12-month period begins with the month the first deposit was
3-26 submitted in error. The amount of assumed earnings is prorated to
3-27 the month of payment.

3-28 (h) Amounts paid, transferred, or credited under this
3-29 section are reduced by any amount required to be withheld by law or
3-30 court order.

3-31 SECTION 3. Section 830.108, Government Code, as added by
3-32 this Act, applies to a member contribution submitted in error as
3-33 provided by that section and maintained by a retirement system,
3-34 regardless of whether the contribution was submitted before, on, or
3-35 after the effective date of this Act.

3-36 SECTION 4. This Act takes effect September 1, 2017.

3-37

* * * * *